

Recent Examples of Supplemental Environmental Projects (SEPs)

Chevron U.S.A. Inc. (10/2018)

Statute(s): Clean Air Act (CAA); Comprehensive Environmental Response, Compensation and Liability Act (CERCLA); and the Emergency Planning and Community Right-to-Know Act (EPCRA).

Overview: Following releases of high temperature hydrocarbons at Chevron's Richmond California refinery, and additional accidental releases of regulated chemicals at other Chevron refineries in Mississippi and California, the EPA cited Chevron for violations of the Risk Management Program requirements and the Clean Air Act General Duty Clause under the CAA (which are aimed at preventing accidental releases of hazardous chemicals); and CERCLA and EPCRA claims regarding delayed reporting of hydrogen sulfide releases.

Civil Penalty: \$2.95 million civil penalty

SEPs: Chevron will supply emergency response equipment, valued at \$10 million, to local jurisdictions surrounding the subject refineries in approximate proportion to the extent of the alleged violations at each refinery. The SEP assists with emergency response planning and preparedness by enabling organizations to fulfill their obligations under EPCRA to assess dangers of hazardous chemicals present, and to develop emergency response plans to better respond to chemical incidents. Primary impact of the donation of emergency response equipment accrues to the same emergency planning districts in which the refineries are located. Further, the SEP relates directly to the violations of Section 112(r) of the Clean Air Act which were alleged in the complaint.

Magnolia Waco Properties, LLC (04/2018)

Statute(s): Toxics Substances Control Act

Overview: Resolved alleged violations of TSCA Section 409 and the Renovation, Remodeling and Repair Rule (RRP Rule) at 33 residential properties in or around Waco, Texas. EPA cited Magnolia for failing to comply with the following requirements and precautions of the RRP Rule: Obtain firm certification from EPA before performing renovations covered by the RRP Rule;-Assign a certified renovator to such renovations;-Provide home owners or occupants with an approved pamphlet about lead-based paint hazards prior to the renovation;-Post signs to clearly define the work area and warn people to remain outside that area;-Comply with the RRP Rule's work practice standards, such as closing doors and windows to the interior work areas, covering floor surfaces, ducts and other openings to work areas with plastic sheeting, and covering the ground with plastic sheeting to capture falling paint chips from exterior renovations.

Civil Penalty: \$40,000

SEPs: Magnolia will spend \$160,000 to abate lead-based paint hazards in homes or child-occupied facilities in the company's local community of Waco, Texas, where occupants are at the highest risk for exposure to dust from lead-based paint. A significant portion of Waco's housing stock was built before 1978, and at least one neighborhood has had historically higher exposure to lead-based paint and a higher percentage of elevated blood lead levels in children than the statewide and national averages. Magnolia's SEP, which will be performed with an independent abatement firm, will reduce the risk of

exposure to lead-based paint by targeting the most likely sources of lead-based paint hazards in residences, such as window and door replacement, removal of lead-based paint and dust, permanent enclosure and encapsulation, and replacement of lead-based paint surfaces and fixtures.

Syngenta Seeds, LLC (02/2018)

Statute(s): Federal Insecticide, Fungicide, and Rodenticide Act

Overview: Syngenta was cited for violating Section 12(a)(2)(G) of FIFRA, by using a registered pesticide in manners inconsistent with its labeling and failing to comply with the Worker Protection Standard (WPS), at its farm in Kauai, Hawaii that resulted in workers being exposed to pesticides. Violations included: (1) failing to prevent workers from entering a treated area where a pesticide had been recently applied; (2) failing to notify workers of recent pesticide applications; (3) failing to provide reasonably accessible decontamination supplies to workers; and (4) failing to make available prompt transportation to an appropriate emergency medical facility for exposed workers.

Civil Penalty: \$150,000 civil penalty

SEPs: Syngenta will spend \$400,000 to develop and implement a compliance promotion SEP. The SEP will be a training program on WPS requirements for growers in Hawaii, Guam, and Saipan (an island in the Commonwealth of the Northern Marianas Islands). Training materials will be tailored to local growers who face pesticide compliance challenges related to language, literacy, geographic and cultural factors. Syngenta will also develop compliance kits for use at these trainings and for wider distribution in the agricultural community in English and four other languages commonly spoken by growers and farmworkers in the training locations – Chinese (Mandarin), Korean, Thai, Tagalog, and Ilocano. Syngenta will make the kits available to the public by posting the materials online for three years after the trainings are complete.

Amazon Services LLC (02/2018)

Statute(s): FIFRA

Overview: Using its “fulfilled by Amazon” service, Amazon distributed unregistered and misbranded pesticide products that were produced and sold by companies outside the United States.

Civil Penalty: \$1,215,700

SEPs: Amazon will spend over \$1.6 million to develop, deploy, and operate a publicly available eLearning course, downloadable materials, and test on the requirements of FIFRA and associated regulations. Many online pesticide sellers lack sufficient knowledge of FIFRA to satisfy their own compliance obligations. Accordingly, one of the purposes of the SEP is to educate third-parties that sell pesticides through Amazon.com and other online channels of FIFRA compliance obligations. Training content will be translated into Spanish and Chinese.

Whole Foods Market Group Inc. (01/2017)

Statute(s): Resource Conservation and Recovery Act

Overview: Parties agreed to resolve Whole Foods Market’s RCRA violations, voluntarily disclosed to EPA, that it: (1) failed to make a hazardous waste determination (e.g., discarded consumer products) as required by 40 C.F.R. 262.11 and (2) failed to comply with some of the universal waste standards set forth in 40 C.F.R. 273.13 through 273.16, at their grocery stores located across several States and Territories.

Civil Penalty: \$500,000 civil penalty.

SEPs: Whole Foods will spend \$2.75 million to perform a SEP to protect children's health by replacing older fluorescent lighting fixtures that contain polychlorinated biphenyls (PCBs) in public schools and community centers serving children located in low to moderate income areas. Whole Foods will also provide hazardous waste training to school and community center personnel, specifically teaching them about the proper identification, handling and disposal of hazardous wastes located and used in the schools and community centers where the supplemental environmental project is performed.

US v. MPLX (01/2019)

Statute(s): CAA

Overview: MPLX failed to comply with multiple volatile organic compound (VOC) emission control requirements under several New Source Performance Standards (NSPS) applicable to natural gas processing plants, including failure to comply with Leak Detection and Repair (LDAR) requirements, failure to control VOC emissions from pressure relief devices, and failure to comply with enclosed combustor testing and monitoring requirements. MPLX also failed to comply with the NSPS for synthetic organic chemical manufacturing distillation units and NSPS regulations applicable to MPLX's hot oil process heaters.

Civil Penalty: \$925,000

SEPs: The settlement includes SEPs that will cost at least \$3.25 million. The CD includes a SEP for ambient monitoring of VOCs upwind and downwind of the Houston Plant in Pennsylvania and the Sherwood Plant in West Virginia, both located in Region 3, and perform down-wind monitoring near the Siloam Plant in Kentucky (Region 4) and the Carthage Plant in Texas (Region 6). MPLX will spend approximately \$2.5 million on fence-line monitoring. MPLX will provide the results of its monitoring to the EPA. While MPLX is not required to take specific steps in response to the emissions monitoring, the data can be used to inform the public, and to inform decisions about necessary responsive actions.

In addition, settlement includes a SEP to use emerging LDAR modeling software technology designed to predict fugitive emission leaks from equipment, intended to reduce VOC emissions. MPLX will spend approximately \$75,000 for this project.

US. v. Gary Sanitation District and Gary, Indiana (03/2018)

Statute(s): CWA

Overview: Under the settlement, Gary Sanitation District (GSD) and the City will implement injunctive relief that will address combined sewer overflows (CSOs) occurring in violation of the CWA.

Civil Penalty: \$75,000

SEPs: GSD will implement SEPs that involve the removal of invasive plant species and restoration of native vegetation to stream banks and riparian areas in Northwest Indiana, including on the Grand Calumet River, a waterbody that has been impacted by the overflows from GSD and the City sewer system. The projects will deliver environmental benefits including improving habitats, eliminating an unnatural monoculture, preventing shoreline erosion, increasing stormwater retention, benefiting local hydrology and improving natural filtration of wet weather flows.

